

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LESTER BELL,

Plaintiff,

Case No. 1:19-cv-233

v.

Hon. Paul L. Maloney

STATE OF MICHIGAN, *et al.*,

Defendants.

/

ORDER REGARDING *IN FORMA PAUPERIS* STATUS ON APPEAL

When plaintiff filed this prisoner civil rights lawsuit, he paid the filing fee. The Court entered judgment against plaintiff on October 7, 2022 (ECF No. 71). Plaintiff filed a notice of appeal on October 19, 2022 (ECF No. 72). The Sixth Circuit Court of Appeals dismissed plaintiff's appeal for lack of prosecution because he failed to pay the filing fee. *See* Order (ECF No. 75); Order denying reconsideration (ECF No. 76). This matter is now before the Court on plaintiff's motion for leave to proceed *in forma pauperis* on appeal (ECF No. 77).

The filing fee for appealing a civil action is \$505.00. Plaintiff must pay a portion of this amount as an initial partial filing fee, which is 20 percent of the greater of (a) the average monthly deposits to the prisoner's account; or (b) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint. 28 U.S.C. § 1915(b)(1); *McGore v. Wrigglesworth*, 114 F.3d 601, 606-07, 611 (6th Cir. 1997). According to the certified copy of plaintiff's prison trust account statement, the average monthly deposit to his account for the past six months is \$154.17 (ECF No. 77-1, PageID.691). Twenty percent of the

plaintiff's average monthly account deposit is \$30.83. Here, plaintiff has insufficient funds to pay the initial partial filing fee. Nonetheless, plaintiff must still pay the full filing and docket fees for the appeal when funds become available. *McGore*, 114 F.3d at 606.

IT IS ORDERED that plaintiff's motion for leave to proceed *in forma pauperis* on appeal (ECF No. 77) is **GRANTED**, and plaintiff is liable for filing and docket fees in the amount of \$505.00.

IT IS FURTHER ORDERED that the agency having custody of plaintiff shall collect the filing and docket fees as follows: each month that the amount in plaintiff's account exceeds \$10.00, the agency shall collect 20 percent of the preceding month's income and remit that amount to the Clerk of this Court, until the balance of the filing and docket fees is paid in full.

Dated: August 3, 2023

/s/ Ray Kent
RAY KENT
United States Magistrate Judge

SEND REMITTANCES TO THE FOLLOWING ADDRESS:

Clerk, U.S. District Court
399 Federal Building
110 Michigan Street, NW
Grand Rapids, MI 49503